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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,517	12/27/2001	Pu Zhou	12013/61601	9382

23838 7590 08/13/2003

KENYON & KENYON  
1500 K STREET, N.W., SUITE 700  
WASHINGTON, DC 20005

EXAMINER

GHAFOORIAN, ROZ

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 08/13/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/026,517

Applicant(s)

ZHOU, PU

Examiner

Roz Ghafoorian

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1-3, 5-8 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Pub No. 2001/0047164 A1 to Teague et al.

Teague teaches a medical catheter having an entrance orifice, and exit orifice, a channel connecting the entrance orifice and the exit orifice and a wall surrounding the

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channel, the hardness of the wall surrounding the channel decreases 32 in hardness then increases 11 in hardness and then decrease 34 again in hardness when considered from an initial reference point at the entrance orifice and traveling towards the exit orifice. A second catheter 13 located within the first catheter, the first catheter sized to allow the second catheter to move within it. A third catheter located within the second catheter, the second catheter is sized to allow the third catheter to move within it. (Paragraph 044)

2. Claims 1-2, 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No.5163431 to Griep.

Griep teaches a catheter having an entrance orifice, and exit orifice, a channel connecting the entrance orifice and the exit orifice and a wall surrounding the channel, the hardness of the wall surrounding the channel decreases 10 in hardness then increases 15 in hardness and then decrease 11 again in hardness when considered from an initial reference point at the entrance orifice and traveling towards the exit orifice. A second catheter 12 located within the first catheter, the first catheter sized to allow the second catheter to move within it. The second catheter has a plurality of flushing orifices sized to allow fluid to pass from an outside surface the second catheter to an inside surface to the second catheter.

3. Claims 1-2, 4-8 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No.6511468 to Itou et al.

Itou teaches a catheter having an entrance orifice, and exit orifice, a channel connecting the entrance orifice and the exit orifice and a wall surrounding the channel,

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the hardness of the wall surrounding the channel decreases 6 in hardness then increases 22 in hardness and then decrease 23 again in hardness when considered from an initial reference point at the entrance orifice and traveling towards the exit orifice. A second catheter located within the first catheter, the first catheter sized to allow the second catheter to move within it (Col. 6, lines 5-10)

4. Claims 1-2, 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No.5897537 to Berg et al.

Berg teaches a catheter having an entrance orifice, and exit orifice, a channel connecting the entrance orifice and the exit orifice and a wall surrounding the channel, the hardness of the wall surrounding the channel decreases 61S in hardness then increases 56 in hardness and then decrease 61P again in hardness when considered from an initial reference point at the entrance orifice and traveling towards the exit orifice. A second catheter 53 located within the first catheter, the first catheter sized to allow the second catheter to move within it.

5. Claims 9-12 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No.6240231 to Ferrera et al.

Ferrera teaches a catheter having an entrance orifice, and exit orifice, a first wall surrounding a channel linking the entrance orifice and the exit orifice the first wall having a bendable curve memory.

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***Response to Arguments***

6. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Ghafoorian whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

RG  
August 7, 2003

  
BRIAN L. CASLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700